

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 22**

**ENGLEWOOD AUTO GROUP, LLC,**

**Employer,**

**Case 22-RC-071848**

**and**

**LOCAL 259, UNITED AUTO WORKERS, AFL-CIO,**

**Petitioner.**

**EMPLOYER'S EXCEPTIONS TO REGIONAL DIRECTOR'S  
REPORT ON CHALLENGED BALLOTS**

**PRELIMINARY STATEMENT**

These exceptions ("Exceptions") are submitted on behalf of Employer Englewood Auto Group, LLC ("Englewood") with respect to the Report on Challenged Ballots issued on March 12, 2011<sup>2</sup> by Regional Director J. Michael Lightner (the "Report"). Englewood is also submitting herewith, in support of these Exceptions, an affidavit of Stephen Descalzi, Englewood's managing member (the "Descalzi Affidavit") and an affidavit of John Chmielewski, Englewood's Service Director (the "Chmielewski Affidavit"), together with the exhibits attached thereto.

This proceeding concerns a secret ballot election that was held on February 10, 2012 and challenges that Petitioner Local 259 took with respect to two ballots, including one submitted by Joseph Delgado ("Delgado"), an Englewood service technician, and one submitted by John DeScalzi. In his Report, the Regional Director concluded that Delgado was not working in the bargaining unit (which included "[a]ll full-time and

regular part-time technicians parts employees, porters and service writers employed by [Englewood] . . .during the payroll period ending Tuesday, January 10, 2012”) during the eligibility period, and he recommended that Petitioner’s challenge to Delgado’s ballot be sustained; and the Regional Director also determined that the challenge to the DeScalzi ballot be pended until the Board ruled on his recommendation with respect to Delgado’s eligibility. The Regional Director further recommended, in the event his recommendation to sustain the challenge to Delgado’s ballot was not adopted by the Board, that this matter be remanded to him for further processing, including issuance of a Notice of Hearing on Challenged Ballots.

For the reasons set out below and in the Descalzi and Chmielewski Affidavits, we respectfully submit that the Board should not sustain the Report’s recommendation with respect to Delgado’s ballot, and that this matter should be remanded for a hearing with respect to both of the challenged ballots.

### **FACTS**

The issue here is whether Delgado was employed by Englewood in the bargaining unit prior to or on January 10, 2012. As shown in the Descalzi Affidavit, in response to a request by the Board Agent assigned to this proceeding, and to substantiate its contention that Delgado had been performing such work prior to January 10, 2012, Englewood submitted evidence that demonstrated that Delgado had applied for employment in December 2011 and that he had received, and had been paid for, training on January 6, 2012. Such evidence consisted of:

a copy of a General Motors training record with respect to Delgado, showing that Delgado had taken training on January 6, 2012 (**Exhibit A**);

a copy of a payroll check and payroll stub, showing that Delgado had received a net payment of \$532.57 for the pay period 01/04/12 to 01/10/12 (**Exhibit B**); and

a copy of Delgado's employment application dated December 19, 2011 (**Exhibit C**).

In addition to, and in order to supplement, the above evidence, Englewood has submitted the Chmielewski Affidavit in which the following facts are set out:

1. In December 2011 Chmielewski, Englewood's Service Director, decided to hire Joseph Delgado ("Delgado") as a technician in Englewood's Service Department.  
Chmielewski Affidavit ¶ 2
2. In December 2011, Delgado brought his "tool box" (a container approximately five feet long, four feet wide, and five feet tall, containing the personal tools which he would use while employed by Englewood) to the job site, and in that month Delgado came to Englewood's premises on several occasions.  
Chmielewski Affidavit ¶ 3
3. On these occasions, Delgado submitted an employment application; met with Chmielewski and with other Englewood personnel; provided advice and/or assistance to other Englewood Service Department employees; and made arrangements to take General Motors training courses. Chmielewski Affidavit ¶ 4
4. Englewood is a General Motors dealership and all technicians employed by such a dealership are required to take regular training courses to keep their skills current. Chmielewski Affidavit ¶ 5

5. In order for the employee to take such courses (many of which may be taken on line), the dealership is required to register the employee with General Motors so that he can receive a GM identification number which he can use to “log in” to the courses he wants to take. Chmielewski Affidavit ¶ 6
6. Once the employee has received his GM identification number, he has access to a “training path” which shows which courses he has completed and which courses he needs to take. Chmielewski Affidavit ¶ 7
7. Such training is an important part of Englewood technicians’ work, and is in fact required by Englewood. Englewood pays its technicians for the hours that they spend in such training, and last year Englewood paid over \$33,000.00 to its technicians on account of the time that they spent in such training. Chmielewski Affidavit ¶ 8
8. From the beginning it was understood and agreed that Delgado would undertake such training. Chmielewski Affidavit ¶ 9
9. In December 2011 Englewood arranged for Delgado to be logged into the GM system and issued a GM Identification No. so that he could start such training. Chmielewski Affidavit ¶ 10
10. Delgado started his training at home in December 2011 and he continued such training at Englewood on January 6, 2011. Chmielewski Affidavit ¶ 11
11. A print out from General Motors showing the courses that Delgado took and completed as an Englewood technician during the period December 2011 through March 18, 2012 demonstrates that Delgado took and completed numerous GM



training courses between December 2011 and January 6, 2012 (Exhibit E).

Chmielewski Affidavit ¶ 12

12. On January 13, 2011 Delgado received a paycheck for his work during the pay period January 4 to January 10, 2012. In that check Delgado was paid for a total of 24 hours, reflecting the time that he had spent in the above training on or before January 6, 2012. Chmielewski Affidavit ¶ 13

### **Point I**

#### **THE AUTHORITIES ON WHICH THE REPORT RELIES ARE DISTINGUISHABLE FROM, AND DO NOT CONTROL, THIS CASE.**

In his Report, the Regional Director held that Delgado's admitted participation in substantial training -- training that was required both by Englewood and by General Motors -- prior to January 10, 2012 did not constitute bargaining unit work. In so concluding, the Regional Director cited and relied on NLRB v. Tom Wood Datsun, 767 F.2d 350 (7<sup>th</sup> Cir. 1985) ("Tom Wood Datsun"), Speedway Petroleum Division of Emro Marketing Company, 269 NLRB 926 (1984) ("Emro Marketing") and F&M Importing Co., 237 NLRB 628 (1978) ("F&M Importing"). All of these decisions are distinguishable from this case.

Tom Wood Datsun did not involve any training activities, much less training activities required by the employer. As the Court in that case noted "[t]he major portion of the afternoon spent on the employer's premises by Upchurch and Sander on September 14, the final eligibility date, consisted of filling out forms and chatting with employees" (767 F.2d 353); and there is no indication in the decision that either of these individuals was compensated for the time thus spent. The Court further noted:

“Finally, and perhaps most significantly, both employees respectively entered September 15 on their employment applications (completed on the September 14 final eligibility date) as the day they were available to begin work . . . and therefore did not even view themselves as working on the eligibility date.”

767 F.2d 354.

In this case, by contrast, Delgado’s employment application and tool box indicated that he was available at “any” time; he engaged in substantial training activities which were required by his employer; and he was fully compensated for such activities.

In Emro Marketing, a divided three-member panel held that two hours of “orientation and training” did not constitute unit work; significantly, however, the Board Chairman who sat on the panel dissented from that determination, and the court which reviewed the Board’s order did not have to, and did not, pass on that issue inasmuch as it upheld the Board’s order excluding the ballot of another voter who had been challenged. See NLRB v. Speedway Petroleum, Division of Emro Marketing Company, 768 F.2d 151, 159 n.5 (7<sup>th</sup> Cir. 1985).

The facts in F&M Importing are also distinguishable. In that case the Board noted (in footnote 18 to its decision) that the employer had acknowledged at the hearing that both of the employees whose ballots had been challenged had started work on February 7, 1977 (i.e., three days after the February 4 eligibility date), but were paid for one hour’s “orientation” on February 4; and the Board further noted that the employer did not pay the employees for that one hour until March 4, which was the pay date for the timecards dated February 22.

## **Point II**

### **OTHER, MORE RECENT DECISIONS BY THE BOARD, WOULD UPHOLD A DETERMINATION OF DELGADO'S ELIGIBILITY IN THIS CASE.**

In CWM, Inc. – Port Arthur, 306 NLRB 495 (1992) a three member panel of the Board overruled a hearing officer's report that had recommended upholding challenges to five ballots. The hearing officer had found that the challenged voters (new employees at a waste treatment facility operated by the employer) spent their first 5 days of employment, June 10 through 14, in an orientation/training program during which they performed no actual bargaining unit work; had concluded that the challenged voters had not begun to perform bargaining unit work on the eligibility date (June 15); and had recommended that challenges to their ballots be sustained.

In overruling the hearing officer's recommendation, the Board noted that the employees were required to attend a 5-day orientation and training program before beginning hands-on work at the facility; that part of the first day was devoted to completing various employment forms and learning about employer policies; and that on the final day of orientation and training (June 14) the employees had been released to their supervisor to begin their assigned jobs but, because of a lack of protective clothing and equipment, had been released for the balance of the day, with instructions to report back on June 17 (i.e., after the June 15 eligibility date).

In footnote 4 to its decision, the Board in CWM, Inc. – Port Arthur specifically distinguished the training undergone by the challenged voters in that case from the mere orientation and "preliminaries" at issue in Tom Wood Datsun, Emro Marketing and F&M Importing; and that distinction was also noted by the Board in a subsequent decision in



which the Board upheld an employer's exception to a hearing officer's recommendation that a challenge to an employee's ballot be sustained. See Dyncorp/Dynair Services, Inc., 320 NLRB 120 (1995). See also e.g. Pep Boys-Manny, Moe and Jack, 339 NLRB 421 (2003) (citing Dyncorp/Dynair, and distinguishing on the job training from "mere 'orientation and preliminaries'").

### **Point III**

#### **UPHOLDING A DETERMINATION OF DELGADO'S ELIGIBILITY IN THIS CASE IS CONSISTENT WITH TODAY'S WORKING ENVIRONMENT AND BOARD POLICY.**

Although past decisions have referred to "on the job training" (see e.g. Dyncorp/Dynair Services, Inc. and Pep Boys – Manny, Moe and Jack, *supra*), it should be noted that today "on line" training is readily available. Such training therefore should be treated as the equivalent of "on the job training" for the purposes of deciding whether an individual was working on or before the eligibility date.

The rule that an employee must be both hired and working on the eligibility date in order to participate in a Board-directed election was adopted to simplify the process of identifying eligible voters, inasmuch as "objective evidence is usually available to pinpoint the time at which an employee commences work while the date of 'hire' is often subject to dispute." NLRB v. Family Heritage Home-Beaver Dam, Inc., 491 F.2d 347, 349 (7<sup>th</sup> Cir. 1974). In this case, there is objective evidence -- in the form of training reports generated by a third party (General Motors) -- that clearly establishes both that Delgado was being trained, and that he received such training well before the January 10, 2012 eligibility date. This fact also distinguishes this case from the cases on which the



Regional Director relied in his Report, and provides an additional reason why Englewood's exceptions thereto should be sustained by the Board.

**CONCLUSION**

Englewood's exceptions to the Report should be sustained and this matter should be remanded for a hearing.

Respectfully submitted,

BISCEGLIE & DEMARCO, LLC

By: \_\_\_\_\_

Angelo R. Bisceglie, Jr.  
Attorneys for Employer  
Englewood Auto Group, LLC  
365 Rifle Camp Road  
Woodland Park, NJ 07424  
(973) 742-8900

**AFFIDAVIT OF  
STEPHEN DESCALZI**

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**Petitioner.**

**AFFIDAVIT OF STEPHEN DESCALZI**

STATE OF NEW JERSEY

COUNTY OF BERGEN

STEPHEN DESCALZI, being duly sworn, deposes and says:

1. I am the managing member of Englewood Auto Group, LLC (“Englewood”), the Employer in this proceeding.
2. This affidavit is submitted in support of Englewood’s exceptions to the Report on Challenged Ballots that the Regional Director issued on March 12, 2012 (the “Report”).
3. After the election that was held on February 10, 2012, and in connection with certain challenges that Petitioner Local 259 had made with respect to that election, Board Agent Kristi Bean requested that I furnish her with documentation with respect to whether Joseph Delgado (“Delgado”), a technician employed by Englewood, had been employed in the bargaining unit during the payroll period ending January 10, 2012.


4. In response to her request, I sent Agent Bean the following documents:

Copy of a General Motors training record with respect to Delgado, showing that Delgado had taken training on January 6, 2012 (**Exhibit A**);

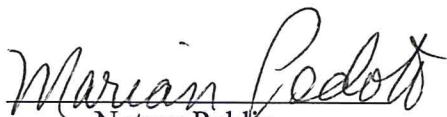
Copy of a payroll check and payroll stub, showing that Delgado had received a net payment of \$532.57 for the pay period 01/04/12 to 01/10/12 (**Exhibit B**); and

Copy of Delgado's employment application dated December 19, 2011 (**Exhibit C**).

5. The above documents were faxed to Agent Bean on February 28, 2012 (see fax transmittal sheet attached as **Exhibit D** hereto).
6. In further support of Englewood's exceptions to the Report, and its contention that Delgado was employed in the bargaining unit during the payroll period ending January 10, 2012, we are also submitting the accompanying affidavit of John Chmielewski, Englewood's Service Director (the "Chmielewski Affidavit"), which provides additional details with respect to Delgado's employment with Englewood and the training that he undertook.

  
\_\_\_\_\_  
Stephen Descalzi

Sworn to before me  
this 23<sup>rd</sup> day of March, 2012

  
\_\_\_\_\_  
Notary Public

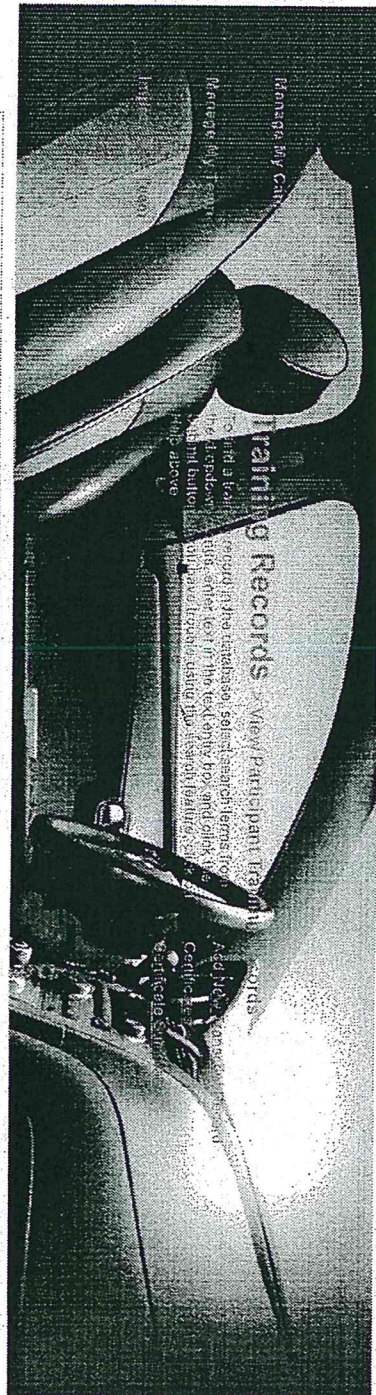
Z:\share\share\Englewood Auto Group\22-RC-071848 (Election)\Affidavit of Stephen Descalzi.doc



7/9/13  
MARIAN PEDOTO  
NOTARY PUBLIC STATE OF NEW JERSEY  
MY COMMISSION EXPIRES



# **EXHIBIT A**



J CHMIELEWSKI  
ENGLEWOOD AUTO GROUP, L.L.C.  
Service Manager

Admin Tools Language Reports  
Search Logout

Resources Profiles Training Path Catalog Schedule Enrollment Testing Training Records Help Contact Us Explore

Return to Student List

Active: Current Common Training courses.  
Inactive: These have been inactivated or are legacy courses.  
View Transcript(s) ☒ Active ☐ Inactive

COURSE NUMBER  IS  SUBMIT

Name Person ID Email Organization ORG Number  
Joseph H Delgado 34428 ENGLEWOOD AUTO GROUP, L.L.C. 0000137

Go to Page  of 15 Records(s) 1 to 30 of 434

Course	Title	Session	Score	Grade	Date	Expires	Source	Next
16040.30H	Global Diagnostic System (GDS) 2	100	P		02/06/2012		Cross	
16048.28D	Global Diagnostic System (GDS) 2 Overview	80	P		02/05/2012		Test	
14043.25W2	Truck AWD/4WD Operation, Diagnosis, and Service 2		P		02/05/2012		WBT	
17043.38W4	Front-Wheel Drive (FWD) / Rear-Wheel Drive (RWD) Operation, Diagnosis and Service 4		P		01/30/2012		WBT	
14043.17W2	Passenger Car All-Wheel Drive 2		P		01/29/2012		WBT	
19047.20W2	Entertainment Systems 2		P		01/25/2012		WBT	
16044.21W4	Engine Performance 4		P		01/23/2012		WBT	
13044.20H	GM Chassis Control Systems	100	P		01/06/2012		Cross	
14041.18H	Propshaft and Rear Axle Operation, Diagnosis, and Service	100	P		01/06/2012		Cross	
14041.18W1	Propshaft and Rear Axle Operation, Diagnosis, and Service 1	100	P		01/06/2012		Cross	
14041.18W2	Propshaft and Rear Axle Operation, Diagnosis, and Service 2	100	P		01/06/2012		Cross	
14043.17W1	Passenger Car All-Wheel Drive 1	100	P		01/06/2012		Cross	
14043.25W1	Truck AWD/4WD Operation, Diagnosis, and Service 1	100	P		01/06/2012		Cross	
17043.38W1	Front-Wheel Drive (FWD) / Rear-Wheel Drive (RWD) Operation, Diagnosis and Service 1	100	P		01/06/2012		Cross	
17043.38W2	Front-Wheel Drive (FWD) / Rear-Wheel Drive (RWD) Operation, Diagnosis and Service 2	100	P		01/06/2012		Cross	
17043.38W3	Front-Wheel Drive (FWD) / Rear-Wheel Drive (RWD) Operation, Diagnosis and Service 3	100	P		01/06/2012		Cross	

ALL TRAINING that  
WAS completed on  
1/6/12

# **EXHIBIT B**





**GMC**

386 GRAND AVENUE  
ENGLEWOOD, NJ 07631  
201-871-0606

ENGLEWOOD-SOUTH DEAN ST.  
145 SOUTH DEAN STREET  
ENGLEWOOD, NEW JERSEY 07631  
55-138-212

DATE  
01/13/12

AMOUNT  
\$532.57

PAY  
FIVE HUNDRED THIRTY TWO AND 57/100 DOLLARS

TO THE ORDER OF  
JOSEPH H DELGADO  
125-B ROSEWELL STREET  
SOUTH AMBOY, NJ 08879

VOID AFTER 90 DAYS

AUTHORIZED SIGNATURE

⑈029339⑈ ⑆021201383⑆ ⑈000041339649⑈

## ENGLEWOOD AUTO GROUP, LLC

EMPLOYEE NO	DP	EMPLOYEE NAME			REGULAR PAY PERIOD		CHECK NO	CHECK DATE		
A68	02	DELGADO;JOSEPH H			01/04/12-01/10/12		110	01/13/12		
EARNINGS		Units	Rate	Current Amt	TAXES	Current	YTD	DEDUCTIONS	Current	YTD
SCHOOL HOURS		8.00	29.08	232.64	FEDERAL W/H	110.46	369.70			
PERSONAL DAY		16.00	29.08	465.28	FICA	29.31	83.72			
					MEDI	10.12	28.90			
					STATE W/H	12.50	59.88			
					DIS	2.96	8.46			

FEDERAL: S Ex 00 +20.00 STATE: NJ				S Ex 00				
SICK: EARNED .00 / USED		.00 / BAL .00		VACATION: EARNED .00 / USED		16.00 / BAL -16.00		
PAY RATE	CUR EARN	CUR COMP	CUR TAX/DED	NET PAY	YTD EARN	YTD COMP	YTD TAX/DED	YTD NET
29.08	697.92	.00	165.35	532.57	1993.35	.00	550.66	1442.69

## ENGLEWOOD AUTO GROUP, LLC

EMPLOYEE NO	DP	EMPLOYEE NAME			REGULAR PAY PERIOD		CHECK NO	CHECK DATE		
A68	02	DELGADO,JOSEPH H			01/04/12-01/10/12		110	01/13/12		
EARNINGS		Units	Rate	Current Amt	TAXES	Current	YTD	DEDUCTIONS	Current	YTD
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PERSONAL DAY		16.00	29.08	465.28	FICA	29.31	83.72			
					MEDI	10.12	28.90			
					STATE W/H	12.50	59.88			
					DIS	2.96	8.46			

FEDERAL: S Ex 00 +20.00 STATE: NJ				S Ex 00					
SICK: EARNED .00 /USED		.00 /BAL .00		VACATION: EARNED .00 /USED		16.00 /BAL -16.00		29339	
PAY RATE	CUR EARN	CUR COMP	CUR TAX/DED	NET PAY	YTD EARN	YTD COMP	YTD TAX/DED		YTD NET
29.08	697.92	.00	165.35	532.57	1993.35	.00	550.66		1442.69



# **EXHIBIT C**

# APPLICATION FOR EMPLOYMENT

We consider applicants for all positions without regard to race, color, religion, creed, gender, national origin, age, disability, marital or veteran status, or any other legally protected status.

(PLEASE PRINT)

Position(s) Applied For <b>MECHANIC</b>		Date of Application <b>12-19-11</b>
How Did You Learn About Us?		
<input type="checkbox"/> Advertisement	<input checked="" type="checkbox"/> Friend	<input type="checkbox"/> Inquiry
<input type="checkbox"/> Employment Agency	<input type="checkbox"/> Relative	<input type="checkbox"/> Other _____

Last Name <b>DELLA00</b>		First Name <b>JOSEPH</b>		Middle Name <b>H</b>
Address <b>125 ROSEWELL ST</b>	City <b>SOUTH AMBOY</b>	State <b>NY</b>	Zip Code <b>08879</b>	
Telephone Number(s) <b>732-757-9976</b>		Social Security Number <b>136 156 15168</b>		

Best time to contact you at home is: **8:5** AM PM

If you are under 18 years of age, can you provide required proof of your eligibility to work?

☐ Yes ☐ No

Have you ever filed an application with us before?

☒ Yes ☐ No

If Yes, give date **1986**

Have you ever been employed with us before?

☒ Yes ☐ No

If Yes, give date **1986**

Do any of your friends or relatives, other than spouse, work here?

☐ Yes ☒ No

If Yes, state name, relationship and location \_\_\_\_\_

Are you currently employed?

☐ Yes ☒ No

May we contact your present employer?

☐ Yes ☒ No

Are you prevented from lawfully becoming employed in this country because of Visa or Immigration Status?

☐ Yes ☒ No

*Proof of citizenship or immigration status will be required upon employment.*

Date available for work **ANY** / /

What is your desired salary range? **3.0**

Are you available to work:

- ☒ Full Time (Please indicate 1 2 3 shift)  
☐ Part Time (Please indicate Mornings Afternoon Evenings)  
☐ Temporary (Please indicate dates available \_\_\_\_/\_\_\_\_ - \_\_\_\_/\_\_\_\_)

Are you currently on "lay-off" status and subject to recall?

☐ Yes ☒ No

Can you travel if a job requires it?

☒ Yes ☐ No

WE ARE AN EQUAL OPPORTUNITY EMPLOYER



# EDUCATION

School	Name and Address of School	Course of Study	Years Completed	Diploma / Degree
High School	XAVIER NYC		4	
Undergraduate College				
Graduate/ Professional				
Other (Specify)	LTI	AUTO	1	

# WORK EXPERIENCE

Start with your present or last job. Include any job-related military service assignments and volunteer activities. You may exclude organizations which indicate race, color, religion, gender, national origin, disabilities or other protected status.

Employer	MARTIN CADILLAC	Dates Employed		Work Performed
Address		From	To	
Telephone Number(s)		9-09	9-10	
Starting/Present Job Title		Hourly Rate/Salary		MECHANIC
Supervisor		Starting	Final	
Reason for Leaving	BANKRUPT		28.	
		May We Contact?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Employer	MALOUF CADILLAC	Dates Employed		Work Performed
Address	RT 1 NEW BRUNSWICK	From	To	
Telephone Number(s)		07	09-09	
Starting/Present Job Title		Hourly Rate/Salary		MECHANIC
Supervisor		Starting	Final	
Reason for Leaving			26	
		May We Contact?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Employer	BROGAN CADILLAC	Dates Employed		Work Performed
Address		From	To	
Telephone Number(s)			26	
Starting/Present Job Title		Hourly Rate/Salary		MECHANIC
Supervisor		Starting	Final	
Reason for Leaving				
		May We Contact?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Employer	MA AUTO	Dates Employed		Work Performed
Address	UNION CITY, N.J.	From	To	
Telephone Number(s)				
Starting/Present Job Title		Hourly Rate/Salary		
Supervisor		Starting	Final	
Reason for Leaving				
		May We Contact?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments: Include explanation of any gaps in employment.

# **EXHIBIT D**



faxed

2/28/12



386 Grand Ave. Englewood NJ, 07631  
Phone: 201.871.0606 Fax: 201.227.1301  
EnglewoodAutoGroup.com

Attn: Kristi Bean

Date: 2/28/12

From: Steve Descalzi

Time:            ☐ am  
           ☐ pm

4

Pages to follow

Would you please

☒ keep this fyi

☐ confirm receipt

☐ approve material

Regarding: Providing You:

① Copy of payroll check from  
payroll period starting 1/4/12

② Copy of GM TRAINING Record  
which shows Joe Delgado TRAINING  
AS of 1/6/12. His first  
day at Englewood Auto Group.

These are copies of GM's records, not  
Englewood Auto Group's records.

③ Employment Application Dated 12/19/11

E mail address: sdescalzi@englewoodautogroup.com

Thanks and enjoy your day!

SENDING REPORT

Feb. 28 2012 02:20PM

YOUR LOGO : BPG  
YOUR FAX NO. : 2012271301

NO.	OTHER FACSIMILE	START TIME	USAGE TIME	MODE	PAGES	RESULT
01	19736453852	Feb. 28 02:17PM	03'25	SND	05	OK

TO TURN OFF REPORT, PRESS 'MENU' #04.  
THEN SELECT OFF BY USING '+' OR '-'.

FOR FAX ADVANTAGE ASSISTANCE, PLEASE CALL 1-800-HELP-FAX (435-7329).

**AFFIDAVIT OF  
JOHN CHMIELEWSKI**



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STATE OF NEW JERSEY

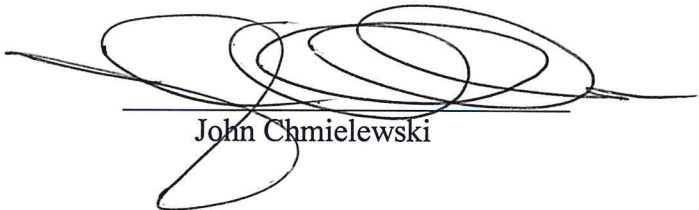
COUNTY OF BERGEN

JOHN CHMIELEWSKI, being duly sworn, deposes and says:

1. I am the Service Director of Englewood Auto Group, LLC (“Englewood”), the Employer in this proceeding.
2. In December 2011 I decided to hire Joseph Delgado (“Delgado”) as a technician in Englewood’s Service Department.
3. In December 2011, Delgado brought his “tool box” (a container approximately five feet long, four feet wide, and five feet tall, containing his personal tools which he would use) to Englewood, and in that month Delgado came to Englewood’s premises in connection with this employment on several occasions.
4. On these occasions, Delgado submitted an employment application; met with me and with other Englewood personnel; provided advice and/or assistance to other

- Englewood Service Department employees; and made arrangements to take General Motors training courses.
5. Englewood is a General Motors dealership and all technicians employed by such a dealership are required to take regular training courses to keep their skills current.
  6. In order for the employee to take such courses (many of which may be taken on line), the dealership is required to register the employee with General Motors so that he can receive a GM identification number which he can use to “log in” to the courses he wants to take.
  7. Once the employee has received his GM identification number, he has access to a “training path” which shows which courses he has completed and which courses he needs to take.
  8. Such training is an important part of our technicians’ work, and is in fact required by Englewood. Englewood pays its technicians for the hours that they spend in such training, and last year Englewood paid over \$33,000.00 to its technicians on account of the time that they spent in such training.
  9. From the beginning it was understood and agreed that Delgado would undertake such training.
  10. In December 2011 we arranged for Delgado to be logged into the GM system and issued a GM Identification No. so that he could start such training.
  11. Delgado started his training at home in December 2011 and he continued such training at Englewood on January 6, 2011.

12. A print out from General Motors showing the courses that Delgado took and completed as an Englewood technician during the period December 2011 through March 18, 2012 is attached as **Exhibit E**, with the courses that were completed between December 2011 and January 6 highlighted.
13. On January 13, 2011 Delgado received a paycheck for his work during the pay period January 4 to January 10, 2012. A copy of that check and the pay stub attached thereto is attached as **Exhibit B** to the affidavit of Stephen Descalzi submitted herewith. In that check Delgado was paid for a total of 24 hours for the above pay period, reflecting the time that he had spent in the above training on or before January 6, 2012.

  
John Chmielewski

Sworn to before me  
this 23<sup>rd</sup> day of March, 2012

  
Notary Public





7/9/13  
MARIAN PEDOTO  
NOTARY PUBLIC STATE OF NEW JERSEY  
MY COMMISSION EXPIRES



# **EXHIBIT E**

Resources Profiles Training Path Catalog Schedule Enrollment Testing Training Records Help Contact Us Explore

 J CHMIELEWSKI  
ENGLEWOOD AUTO GROUP, L.L.C.  
Service Manager

Admin Tools Language Reports  
Search  LOGOUT

Manage My Career  
Manage My Team  
Manage My Team

**Training Records**  
To find a training record in the database, select search terms from the dropdown menu and click the search button. You can also click the Add New Transcript button to add a new transcript to the database.  
Add New Transcript  
Certificate  
Duplicate Summary



[Return to Student List](#)

Active: Current Common Training courses.  
Inactive: These have been inactivated or are legacy courses.  
View Transcript(s): ☒ Active ☐ Inactive

COURSE NUMBER  IS  SUBMIT

Name	Person ID	Email	Organization	ORG Number
Joseph H Delgado	34428		ENGLEWOOD AUTO GROUP, L.L.C.	0000137

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Course	Title	Session	Score	Grade	Date	Expires	Source
10212.03D	2012 SKH Seminar Mar Emerging Issues		100	P	03/18/2012		Test
FVCT1.09D	How to Use VCT		100	P	02/29/2012		Cross
10212.02D	2012 SKH Seminar Feb Emerging Issues		100	P	02/19/2012		Test
17043.45V	GM TR6060 Tremec 6-Speed Transmission Overhaul		80	P	02/14/2012		Test
17043.45V	GM TR6060 Tremec 6-Speed Transmission Overhaul		50	F	02/14/2012		Test
17043.45V	GM TR6060 Tremec 6-Speed Transmission Overhaul		40	F	02/14/2012		Test
17043.45V	GM TR6060 Tremec 6-Speed Transmission Overhaul		70	F	02/14/2012		Test
10212.01D	2012 SKH Seminar Jan Emerging Issues		100	P	02/12/2012		Test
16048.30H	Global Diagnostic System (GDS) 2		100	P	02/06/2012		Cross
16048.28D	Global Diagnostic System (GDS) 2 Overview		80	P	02/05/2012		Test
14043.25W2	Truck 4WD/AWD Operation and Diagnosis 2			P	02/05/2012		WBT
17043.38W4	Front-Wheel Drive (FWD) / Rear-Wheel Drive (RWD) Operation, Diagnosis and Service 4			P	01/30/2012		WBT
14043.17W2	Passenger Car All-Wheel Drive 2			P	01/29/2012		WBT
19047.20W2	Entertainment Systems 2			P	01/25/2012		WBT
16044.21W4	Engine Performance 4			P	01/23/2012		WBT
13044.20H	GM Chassis Control Systems		100	P	01/06/2012		Cross
14041.18H	Propshaft and Rear Axle Operation, Diagnosis, and Service		100	P	01/06/2012		Cross
14041.18W1	Propshaft and Rear Axle Operation, Diagnosis, and Service 1		100	P	01/06/2012		Cross
14041.18W2	Propshaft and Rear Axle Operation, Diagnosis, and Service 2		100	P	01/06/2012		Cross
14043.17W1	Passenger Car All-Wheel Drive 1		100	P	01/06/2012		Cross
14043.25W1	Truck 4WD/AWD Operation and Diagnosis 1		100	P	01/06/2012		Cross
17043.38W1	Front-Wheel Drive (FWD) / Rear-Wheel Drive (RWD) Operation, Diagnosis and Service 1		100	P	01/06/2012		Cross
17043.38W2	Front-Wheel Drive (FWD) / Rear-Wheel Drive (RWD) Operation, Diagnosis and Service 2		100	P	01/06/2012		Cross
17043.38W3	Front-Wheel Drive (FWD) / Rear-Wheel Drive (RWD) Operation, Diagnosis and Service 3		100	P	01/06/2012		Cross
19047.20H	Entertainment Systems		100	P	01/06/2012		Cross
18420.06D2	Electric Vehicle Systems Diagnosis and Service Session 2	220846	100	P	01/06/2012		VCT
16048.30W	Global Diagnostic Systems (GDS) 2			P	12/28/2011		WBT
16048.18W	Tech 2 Familiarization			P	12/28/2011		WBT
10211.12D	2011 SKH Seminar December Emerging Issues		100	P	12/28/2011		Test
12040.34H	GM Moveable Roof and Sunroof Systems		100	P	12/16/2011		Cross

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Training  
Completed  
on or  
before  
1/6/12